



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,191	08/06/2003	Michael M. Moshontz	BMIZ 2 00018	8320

7590 01/25/2006

Jay F. Moldovanyi, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
7th Floor
1100 Superior Avenue
Cleveland, OH 44114-2518

EXAMINER

GEORGE, KONATA M

ART UNIT PAPER NUMBER

1616

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/635,191	Applicant(s) MOSHONTZ ET AL.	
	Examiner Konata M. George	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 1-20 are pending in this application.

Drawings

1. The drawing(s) filed under 37 CFR 1.184 or 1.152 are accepted by the examiner.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on August 6, 2003 was noted and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanese (US 4,826,674) in view of Sampson et al. (US 5,085,849), Burnham (US 6,318,601) and Fox et al. (US 6,279,834).

Albanese discloses an air freshener preparation. Column 14, lines 55-62 discloses a general formulation for the preparation comprising a fragrance (q.s.), propellant (approx. 15.0%), solvent (approx. 2.0%), cocodiethanolamide (approx. 0.1 to

Art Unit: 1616

10%) and water (approx. 50 to 83%). Column 6, lines 17-25 teach examples of propellants such as hydrocarbons or halocarbons. Column 6, line 66 through column 7, line 4 teach that triethylene glycol can be added to the composition for controlling the propellant. The prior art does not teach the composition containing ambient air, sodium nitrite, or a container for said composition.

Sampson et al. teaches a deodorant composition comprising sodium nitrite as a preservative to retard microbial growth in the composition.

Burnham discloses a personal spray-dispensing device comprising an inner containment chamber, an outer casing, a fluid discharge system and a pressure control device (col. 2, line 13 through col. 3, line 7). Column 3, lines 25-40 teach that the deodorant system can contain a pressurized fluid, wherein the fluid can comprise a mixture of a concentrate of a specific deodorizing agent, combined with a gaseous propellant or mixtures of different propellants.

Fox et al. discloses a device for compressed gas propelled aerosols. The device of the instant invention contains either butane as a liquefied propellant or compressed air as the propellant (col. 1, lines 8-41). Column 3, lines 10-15 teach that the gas propellants may be used for various products such as air fresheners, etc.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Albanese of an air freshener composition together with Sampson adding the preservative sodium nitrite to a deodorant and Burnham of a container to dispense the deodorant composition with the aerosol device of Fox et al. disclosing various types of propellants i.e. butane and compressed air for

Art Unit: 1616

use as an air freshener to disclose the claimed invention. With respect to the claimed concentrations, absent a clear showing of criticality, the determination of particular concentrations is within the skill of the ordinary worker as part of the process of normal optimization to achieve the desired results of the claimed composition.

Conclusion

4. Claims 1-20 are rejected.

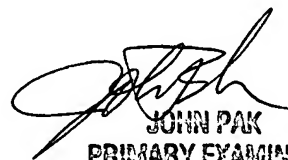
Telephone Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is (571) 272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8000 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Konata M. George


JOHN PAK
PRIMARY EXAMINER
GROUP 1600